



October 14, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
ATTN: CMS-9907-P
200 Independence Avenue, SW
Washington, DC 20201

Ali Khawar
Acting Assistant Secretary
Employee Benefits Security Administration
Department of Labor
200 Constitution Avenue, NW
Washington, DC 20201

Douglas W. O'Donnell
Deputy Commissioner for Services and Enforcement
Internal Revenue Service
ATTM: REG-114676-21
1111 Constitution Avenue, NW
Washington, DC 20224

Laurie Bodenheimer
Associate Director
Healthcare and Insurance
Office of Personnel Management
1900 E Street, NW
Washington, DC 20415

Re: Requirements Related to Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement

86 Fed. Reg. 51730 (September 16, 2021)

Dear Secretary Becerra, Acting Assistant Secretary Khawar, Deputy Commissioner O'Donnell and Associate Director Bodenheimer:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the proposed rule related to agent and broker disclosures. ACS CAN is making cancer a top priority for public officials and candidates at the federal, state, and local levels. ACS CAN empowers advocates across the country to make their voices heard and influence evidence-based public policy change, as well as legislative and regulatory solutions that will reduce the cancer burden. As the American Cancer Society's nonprofit, nonpartisan advocacy affiliate, ACS CAN is critical to the fight for a world without cancer.

Access to comprehensive health care is paramount for persons with cancer as well as survivors. In the United States, there are more than 1.9 million Americans who will be diagnosed with cancer this year.¹ An additional 16.9 million Americans living today have a history of cancer.² For these Americans, access to affordable health insurance is a matter of life or death. Research from the American Cancer Society has shown that uninsured Americans are less likely to get screened for cancer and thus are more likely

¹ American Cancer Society. *Cancer Facts & Figures 2021*. Atlanta, GA: American Cancer Society; 2021.

² Id.



to have their cancer diagnosed at an advanced stage when survival is less likely and the cost of care more expensive.³

II. PROVISIONS OF THE PROPOSED RULES – DEPARTMENT OF HHS

B. Part 148-Requirements for the Individual Health Insurance Market

HHS proposes to add a requirement that health insurance issuers offering individual health insurance coverage or short-term, limited-duration insurance (STLDI) disclose to policyholders and annually report to HHS direct and indirect compensation provided by the issuer to an agent or broker associated with enrolling individuals in such coverage.

ACS CAN applauds HHS for requiring the disclosure of both direct and indirect compensation provided to agents and brokers who enroll individuals in individual health insurance and STLDI. We believe this proposal will help better inform individuals shopping for health insurance coverage regarding the extent to which an agent or broker may be financially incentivized to suggest a particular plan.

Scope: We are pleased the proposed rule would apply broadly to individual health insurance coverage and STLDI policies. We believe that consumers have a right to know what financial compensation could be provided to agents and brokers who enroll individuals in coverage. The proposed rule is focused on the compensation provided to the end agent or broker but there can be financial arrangements that are provided to intermediaries other than the end agent or broker and we encourage the Administration to ensure that these financial arrangements are disclosed as well.

Annual reporting to the Secretary: ACS CAN applauds the Administration for requiring issuers offering individual health insurance coverage and STLDI policies to annually report to HHS the direct and indirect compensation paid to agents and brokers who enroll individuals in plans. We believe this information will help HHS determine what future action may be needed to ensure that agents and brokers provide individuals with information regarding health insurance options that are based on the needs of the individuals, rather than financial incentives provided to the agent or broker.

We recognize that direct and indirect compensation can include many forms. Therefore, we urge HHS to clarify that reporting must include a fixed dollar amount (or, in the case of indirect compensation, a reporting of the fair market value of the indirect compensation) rather than allow issuers to report compensation in the form of a percentage of the plan's premium. We also urge HHS to require plans to report compensation information based on the type of plan (individual market vs. STLDI). This will better allow HHS the ability to compare compensation rates among plans.

Disclosure to the individual: With respect to disclosure information provided to the enrollee, we support the Administration's proposal to provide disclosure of financial compensation provided to the agent and broker. We would also urge the Administration to require additional disclosure that individuals be provided with information about the availability of qualified health plans in their state marketplace and the availability of tax credits and subsidies for those that qualify.

³ E Ward et al, "Association of Insurance with Cancer Care Utilization and Outcomes, CA: A Cancer Journal for Clinicians 58:1 (Jan./Feb. 2008), <http://www.cancer.org/cancer/news/report-links-health-insurance-status-with-cancer-care>.

Rescind STLDI rule: ACS CAN opposes the proliferation of STLD plans. We filed extensive comments expressing concern with the current rule regarding STLD plans, which was codified during the previous administration.⁴ These products often exclude individuals with a history of cancer and/or fail to provide adequate coverage for cancer treatments.^{5,6} We urge the Administration to rescind the 2018 STLDI rule.

CONCLUSION

Thank you for the opportunity to comment on agent and broker disclosure proposed rule. If you have any questions, please feel free to contact me or have your staff contact Anna Schwamlein Howard, Policy Principal, Access and Quality of Care at Anna.Howard@cancer.org.

Sincerely,



Lisa A. Lacasse, MBA
President
American Cancer Society Cancer Action Network

⁴ American Cancer Society Cancer Action Network. Comment letter on Short-Term, Limited-Duration Insurance Proposed Rule. Apr. 20, 2018. Available at <https://www.fightcancer.org/sites/default/files/ACS%20CAN%20Comments%20on%20Short-Term%20Rule%20FINAL.pdf>.

⁵ American Cancer Society Cancer Action Network. Inadequate coverage: An ACS CAN examination of short-term health plans. May 13, 2019. Available at <https://www.fightcancer.org/sites/default/files/ACS%20CAN%20Short%20Term%20Paper%20FINAL.pdf>.

⁶ American Cancer Society Cancer Action Network. The Costs of Cancer. October 22, 2020. Available at www.fightcancer.org/costsofcancer